REGISTERED No. D. 221

The Gazette of India

EXTRAORDINARY
PART II—Section 2
PUBLISHED BY AUTHORITY

No. 24] NEW DELHI, TUESDAY, APRIL 27, 1954

HOUSE OF THE PEOPLE

The following Bill was introduced in the House of the People on 27th April, 1954:—

BILL No. 20 OF 1954

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament in the Fifth Year of our Republic as follows:—

1. **Short title.**—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1954.

2. **Amendment of section 4, Act V of 1898.**—In section 4 of the Code of Criminal Procedure (hereinafter referred to as the principal Act), in clause (*w*) of sub-section (*1*), for the words "transportation or imprisonment for a term exceeding six months", the words "or imprisonment for a term exceeding one year" shall be substituted.

3. **Amendment of section 9, Act V of 1898.**—In sub-section (*2*) of section 9 of the principal Act,—

(*a*) the words "but, until such order is made, the Courts of Session shall hold their sittings as heretofore" shall be omitted, and

(*b*) to the said sub-section, the following proviso shall be added, namely:—

"Provided that a Court of Session may, if it is of opinion, after giving the prosecution and the accused an opportunity of being heard, that it will tend to the general convenience of the parties or witnesses in any particular case, sit for the trial of that case at any place within the sessions division".

4. **Amendment of section 14, Act V of 1898.**—In sub-section (*1*) of section 14 of the principal Act, after the words "any person", the words "who has held any judicial post under the Union or a State or possesses such other qualifications as may be specified in this behalf by the State Government by notification in the Official Gazette" shall be inserted.

5. Amendment of section 29B, Act V of 1898.—In section 29B of the principal Act, for the word "transportation" the word "imprisonment" shall be substituted.

6. Substitution of new section for section 30 in Act V of 1898.—For section 30 of the principal Act, the following section shall be substituted, namely:—

"30. *Offences punishable with imprisonment not exceeding seven years.*—The State Government may, notwithstanding anything contained in section 28 or section 29, invest any District Magistrate, Presidency Magistrate or any person who has been a Magistrate of the first class for not less than ten years with power to try as a Magistrate all offences not punishable with death or with imprisonment exceeding seven years".

7. Amendment of section 31, Act V of 1898.—In sub-section (*3*) of section 31 of the principal Act, for the words "of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years", the words "of imprisonment for a term exceeding ten years" shall be substituted.

8. Amendment of section 32, Act V of 1898.—In sub-section (*1*) of section 32 of the principal Act,—

(*i*) in clause (*a*), for the words "one thousand" the words "two thousand" shall be substituted;

(*ii*) in clause (*b*), for the words "two hundred", the words "five hundred" shall be substituted;

(*iii*) in clause (*c*), for the word "fifty", the words "one hundred" shall be substituted.

9. Amendment of section 34, Act V of 1898.—In section 34 of the principal Act, the words "transportation for a term exceeding seven years or" shall be omitted.

10. Amendment of section 35, Act V of 1898.—In sub-section (*1*) of section 35 of the principal Act, the words "or transportation" shall be omitted.

11. Amendment of section 45, Act V of 1898.—In sub-section (*1*) of section 45 of the principal Act, after the words "management of that land", the words and brackets "and every member of a village panchayat (where such panchayat, by whatever name called, is constituted under any law for the time being in force)" shall be inserted.

12. Amendment of section 46, Act V of 1898.—In sub-section (*3*) of section 46 of the principal Act, for the word "transportation", the word 'imprisonment' shall be substituted.

13. Amendment of section 47, Act V of 1898.—In section 47 of the principal Act, for the words "the person residing", the words "any person residing" shall be substituted.

14. Amendment of section 90, Act V of 1898.—In section 90 of the principal Act, the words "or assessor" shall be omitted.

15. Amendment of section 107, Act V of 1898.—For sub-section (2) of section 107 of the principal Act, the following sub-section shall be substituted, namely:—

"(2) Proceedings under this section may be taken before any Magistrate empowered under sub-section (1) when either the place where the breach of the peace or disturbance is apprehended is within the local limits of such Magistrate's jurisdiction or there is within such limits a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such limits."

16. Amendment of section 117, Act V of 1898.—For sub-section (2) of section 117 of the principal Act, the following sub-section shall be inserted, namely:—

"(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases."

17. Substitution of new section for section 145 and section 146 in Act V of 1898.—For section 145 and section 146 of the principal Act, the following section shall be substituted, namely:—

"145. *Procedure where dispute concerning land, etc., is likely to cause breach of peace.*—(1) Whenever a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to show cause, within a time to be fixed by such Magistrate, why the subject of dispute shall not be attached:

Provided that if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(2) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(3) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, hear the parties and if he is satisfied that it is necessary so to do, he may attach the subject of dispute until a Civil Court has determined the rights of the parties thereto or the persons entitled to possession thereof or for such shorter period as he thinks fit:

Provided that where the subject of dispute has been attached for a shorter period as aforesaid, the Magistrate may, after hearing the parties and if satisfied that it is necessary so to do, from time to time, extend the period of attachment:

Provided further that an order under this sub-section shall be subject to any subsequent order of a Civil Court.

(4) When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure:

Provided that in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

(5) Nothing in this section shall preclude any party or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and if the Magistrate is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute, he may withdraw the attachment at any time.

(6) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(7) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody and sale of such property, and if any such property is sold, he shall make such order for the custody of the sale proceeds thereof as he thinks fit pending the disposal of such property or the sale proceeds thereof by a Civil Court.

(8) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(9) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

18. Amendment of section 147, Act V of 1898.—For sub-section (*1*) of section 147 of the principal Act, the following sub-sections shall be substituted, namely:—

"(*1*) Whenever any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in sub-section (*8*) of section 145, (whether such rights be claimed as easement or otherwise), within the limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims.

(*1A*) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence,

take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists and the provisions of section 145 shall, as far as may be, be applicable in the case of such inquiry."

19. Amendment of section 148, Act V of 1898.—In sub-section (*3*) of section 148 of the principal Act, the word and figures "section 146" shall be omitted.

20. Amendment of section 161, Act V of 1898.—After sub-section (*3*) of section 161 of the principal Act, the following sub-sections shall be inserted, namely:—

"(*4*) No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it.

(*5*) The police officer may, in any cognizable case and shall, in all cases of offences triable by the Court of Session, require the attendance before a Magistrate of all such persons whose evidence, in the opinion of the police officer, will be material at the time of the inquiry or trial, to have their statements recorded under section 164; and such persons shall attend as so required."

21. Omission of section 162 in Act V of 1898.—Section 162 of the principal Act shall be omitted.

22. Amendment of section 164, Act V of 1898.—In sub-section (*1*) of section 164 of the principal Act, the words "specially empowered in this behalf by the State Government" shall be omitted.

23. Amendment of section 173, Act V of 1898.—In section 173 of the principal Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The report forwarded under sub-section (*1*) shall be accompanied by copies of the first information report recorded under section 154 and of all other documents on which the prosecution proposes to rely, including statements of witnesses recorded under sub-section (*3*) of section 161 and statements and confessions recorded under section 164.";

(*b*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) A copy of the report forwarded under sub-section (*1*) and of all the documents accompanying the same shall be furnished to the accused before the commencement of the inquiry or trial:

Provided that if the Court is of opinion that any part of any statement recorded under sub-section (*3*) of section 161 is not relevant to the subject-matter of the inquiry or trial, or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused."

24. Amendment of section 196A, Act V of 1898.—In clause (2) of section 196A of the principal Act, the word 'transportation' shall be omitted.

25. Amendment of section 198, Act V of 1898.—In section 198 of the principal Act, for the words and figures "Chapter XIX or Chapter XXI of the Indian Penal Code", the words and figures "Chapter XIX of the Indian Penal Code or Chapter XXI of the same Code except an offence of defamation against the President, the Governor or Rajpramukh of any State or a Minister or any other public servant in the discharge of his public functions" shall be substituted.

26. Amendment of section 200, Act V of 1898.—In section 200 of the principal Act, for the words "examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant", the words "examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses" shall be substituted.

27. Amendment of section 203, Act V of 1898.—In section 203 of the principal Act, after the words "of the complainant", the words "and the witnesses" shall be inserted.

28. Amendment of section 204, Act V of 1898.—In section 204 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) No summons or warrant shall be issued against the accused under sub-section (*1*) until a list of the prosecution witnesses has been filed."

29. Substitution of new sections for section 207 in Act V of 1898.—For section 207 of the principal Act, the following sections shall be substituted, namely:—

"207. *Procedure in inquiries preparatory to commitment.*—In every inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the Magistrate shall,—

(*a*) in any proceeding instituted on a police report, follow the procedure specified in section 207A; and

(*b*) in any other proceeding, follow the procedure specified in the other provisions of this Chapter.

207A. *Procedure to be adopted in proceedings instituted on police report.*—(*1*) In any proceeding instituted on a police report, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that all documents referred to in section 173 have been furnished to the accused, and if he finds that any such document has not been so furnished, he shall cause the same to be furnished to the accused.

(*2*) The Magistrate shall peruse all the documents relevant to the case, examine the accused, if necessary, and after giving the prosecution and the accused an opportunity of being heard, he

shall decide whether the accused should be committed for trial or should be tried before himself or some other Magistrate and he shall proceed accordingly.

(3) If, in the opinion of the Magistrate, the accused should be committed for trial, he shall prepare a draft charge indicating what offence the accused is alleged to have committed and make an order committing the accused for trial by the High Court or the Court of Session, as the case may be.

(4) As soon as such draft charge has been prepared, it shall be read and explained to the accused, and a copy thereof shall be given to him free of cost.

(5) The accused shall be required at once to give in orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial:

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial, to the clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(6) When the accused has been committed for trial, the Magistrate shall summon the complainant and the witnesses for the prosecution and defence to appear before the Court to which the accused has been committed:

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the clerk of the State and such witnesses may be summoned accordingly:

Provided further that if the Magistrate thinks that any witness is included in the list given by the accused for the purpose of vexation or delay, or for defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

(7) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the draft charge; and shall send the draft charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the clerk of the State or other officer appointed in this behalf by the High Court.

(8) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(9) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant, to custody."

30. Amendment of section 208, Act V of 1898.—In sub-section (1) of section 208 of the principal Act, for the words "The Magistrate shall", the words "In any proceeding instituted otherwise than on a police report, the Magistrate shall" shall be substituted.

31. Amendment of section 209, Act V of 1898.—In sub-section (1) of section 209 of the principal Act, the words "for the purpose of enabling him to explain any circumstances appearing in the evidence against him" shall be omitted.

32. Amendment of section 226, Act V of 1898.—In section 226 of the principal Act, after the words "without a charge", the words "or with a draft charge" shall be inserted.

33. Amendment of section 227, Act V of 1898.—In sub-section (1) of section 227 of the principal Act,—

(i) after the words "in the case of trials", the words "by jury" shall be inserted;

(ii) the words "or the opinions of the assessors are expressed" shall be omitted.

34. Amendment of section 247, Act V of 1898.—In section 247 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where the Magistrate is of opinion that the personal attendance of any complainant is not necessary, the Magistrate may dispense with his attendance, and proceed with the case."

35. Amendment of section 250, Act V of 1898.—In sub-section (2) of section 250 of the principal Act, for the words "one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees", the words "one-half of the amount of fine he is empowered to impose" shall be substituted.

36. Amendment of section 252, Act V of 1898.—In section 252 of the principal Act,—

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that the Magistrate may, for reasons to be recorded in writing, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) In any proceeding instituted on a police report, the Magistrate shall, before commencing the trial under sub-section (1), satisfy himself that all the documents referred

to in section 173 have been furnished to the accused and if he finds that any such document has not been so furnished, he shall cause the same to be furnished to the accused."

37. Amendment of section 256, Act V of 1898.—For sub-section (*1*) of section 256 of the principal Act, the following sub-section shall be substituted, namely:—

"(*1*) If the accused refuses to plead, or does not plead, or claims to be tried, the Magistrate may, if he is of opinion that further cross-examination of any of the prosecution witnesses is necessary in the interests of justice, allow further cross-examination of such witnesses and the witnesses shall be recalled and after such further cross-examination and re-examination, if any, they shall be discharged and the accused shall then be called upon to enter upon his defence and produce his evidence."

38. Amendment of section 257, Act V of 1898.—For sub-section (*1*) of section 257 of the principal Act, the following sub-section shall be substituted, namely:—

"(*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness (other than a prosecution witness) on his behalf for the purpose of examination or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing."

39. Amendment of section 260, Act V of 1898.—In sub-section (*1*) of section 260 of the principal Act,—

(*a*) the word "transportation" shall be omitted;

(*b*) for the words "fifty rupees" wherever they occur, the words "two hundred rupees" shall be substituted.

40. Substitution of new section for section 264 in Act V of 1898.—For section 264 of the principal Act, the following section shall be substituted, namely:—

"264. *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record a judgment in the case."

41. Substitution of new section for section 268 in Act V of 1898.—For section 268 of the principal Act, the following section shall be substituted, namely:—

"268. *Trials before Court of Session.*—All trials before a Court of Session shall be either by jury or by the Judge himself."

42. Amendment of section 269, Act V of 1898.—In section 269 of the principal Act,—

(*a*) in sub-section (*3*), for the words "by the Court of Session, with the aid of jurors or assessors", the words "by the Judge himself" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) When, in respect of a trial in which the accused is charged with an offence triable by jury, it appears to the High Court, on an application made to it or otherwise, that having regard to the volume and complexity of the evidence in the case, the trial is not likely to be concluded within one week from its commencement, or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury, the High Court may, notwithstanding anything contained in sub-section (*1*), by order, direct that that case shall be tried by the Judge himself without a jury and the Judge shall proceed to try the case accordingly."

43. Amendment of section 271, Act V of 1898.—To sub-section (*1*) of section 271 of the principal Act, the following proviso shall be added, namely:—

"Provided that where only a draft charge has been prepared by a Magistrate under section 207A, the Court shall frame a charge under his hand, declaring with what offence the accused is charged."

44. Substitution of new section for section 272 in Act V of 1898.—For section 272 of the principal Act, the following section shall be substituted, namely:—

"272. *Refusal to plead or claim to be tried.*—If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall, in a case triable by jury, proceed to choose jurors as hereinafter directed and to try the case, but in any other case, the Judge shall proceed to try the case himself:

Provided that, in cases triable by jury, the same jury may, subject to the right of objection hereinafter mentioned, try as many accused persons successively as the Court thinks fit."

45. Amendment of section 274, Act V of 1898.—In sub-section (*2*) of section 274 of the principal Act,—

(*i*) for the word "five" the word "seven" shall be substituted;

(*ii*) in the proviso, for the words "shall consist of not less than seven persons and, if practicable, of nine persons", the words "shall consist, if practicable, of nine persons" shall be substituted.

46. Substitution of new section for section 282 in Act V of 1898.—For section 282 of the principal Act, the following section shall be substituted, namely:—

"282. *Procedure when juror ceases to attend, etc.*—(*1*) If, in the course of a trial by jury at any time before the return of the verdict,—

(*a*) any juror, for any sufficient cause, is prevented from attending the trial on any day, or

(*b*) if any juror absents himself and it is not practicable to enforce his attendance, or

(*c*) if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted,

the Court, in any case falling under clause (*a*), may either adjourn the trial or discharge the juror and in any case falling under clause (*b*) or clause (*c*), shall discharge the juror; and in any case where any juror is so discharged, the jury shall be deemed to be reconstituted with the remaining jurors as if the jury had consisted of such persons only from the commencement of the trial and the trial shall proceed before the jury so reconstituted; and notwithstanding anything contained elsewhere in this Act, such trial shall not be invalid by reason only of the fact that the number of persons originally constituting the jury has been reduced.

(*2*) Notwithstanding anything contained in sub-section (*1*), if, in the course of a trial by jury, the number of persons constituting the jury is so reduced that,—

(*a*) when the jury originally consisted of nine persons, it falls below seven; or

(*b*) when the jury originally consisted of seven persons, it falls below five;

the jury shall be discharged and a new jury chosen, and in each of such cases, the trial shall commence anew."

47. Omission of sections 284 and 285 in Act V of 1898.—Section 284 and section 285 of the principal Act shall be omitted.

48. Amendment of section 286, Act V of 1898.—In section 286 of the principal Act,—

(*a*) in sub-section (*1*), for the words "When the jurors or assessors have been chosen", the words "In a case triable by jury, when the jurors have been chosen or, in any other case, when the Judge is ready to hear the case" shall be substituted;

(*b*) to sub-section (*2*), the following proviso shall be added, namely:—

"Provided that if after the examination of prosecution witnesses, the Court is of opinion that further cross-examination of any of the prosecution witnesses is necessary in the interests of justice, it may allow further cross-examination of such witnesses and the witnesses shall be recalled and after such further cross-examination and re-examination, if any, they shall be discharged."

49. Amendment of section 287, Act V of 1898.—In section 287 of the principal Act, for the word "duly", the words "if any" shall be substituted.

50. Amendment of section 289, Act V of 1898.—In sub-section (2) and sub-section (3) of section 289 of the principal Act, for the words "in a case tried with the aid of assessors" wherever they occur, the words "in a case tried by the Judge himself" shall be substituted.

51. Amendment of section 291, Act V of 1898.—In section 291 of the principal Act, after the words "in sections", the figures and letter "207A" shall be inserted.

52. Amendment of section 293, Act V of 1898.—In section 293 of the principal Act, the words "or assessors" wherever they occur shall be omitted.

53. Amendment of section 294, Act V of 1898.—In section 294 of the principal Act, the words "or assessor" shall be omitted.

54. Amendment of section 295, Act V of 1898.—In section 295 of the principal Act, the words "or assessors" shall be omitted.

55. Amendment of section 297, Act V of 1898.—To section 297 of the principal Act, the following words shall be added, namely:—

"and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered".

56. Amendment of section 301, Act V of 1898.—In section 301 of the principal Act, after the words "verdict of a majority", the words "or that the jurors are equally divided in opinion" shall be inserted.

57. Amendment of section 302, Act V of 1898.—In section 302 of the principal Act, after the words "although they are not unanimous", the words "or the foreman may inform the Judge that the jurors are still equally divided in opinion" shall be inserted.

58. Amendment of section 307, Act V of 1898.—In section 307 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If in any such case, the jurors are equally divided in opinion on all or any of the charges on which any accused person has been tried, the Judge shall submit the case in respect of such accused person to the High Court recording his opinion on such charge or charges and the grounds of his opinion, and in such case, if the accused is further charged under the provisions of section 310, he shall proceed to try him on such charge as if the verdict of the jury had been one of conviction."

59. Substitution of new sub-head and new section for sub-head H and section 309 in Act V of 1898.—For sub-head H and section 309 of the principal Act, the following shall be substituted, namely:—

"H—*Conclusion of trial in cases tried by the Judge himself*:

309. *Judgment in cases tried by the Judge himself.*—(*1*) When, in a case tried by the Judge himself, the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give a judgment in the case.

(*2*) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on him according to law."

60. Amendment of section 310, Act V of 1898.—In section 310 of the principal Act,—

(*a*) for the words "or with the aid of assessors", the words "or by the Judge himself" shall be substituted;

(*b*) for sub-clause (*ii*) of clause (*a*), the following sub-clause shall be substituted, namely:—

"(*ii*) in the case of a trial by a jury, the jury have delivered their verdict on the charge of the subsequent offence;";

(*c*) in clause (*b*), for the words "held with the aid of assessors", the words "held by the Judge himself" shall be substituted.

61. Amendment of section 319, Act V of 1898.—In section 319 of the principal Act,—

(*a*) the word "male" shall be omitted;

(*b*) the words "or assessors" shall be omitted.

62. Amendment of sub-head K and sections 320, 321, 324, 326, 327, 328, 329, 330, 331, 332 and 339A, Act V of 1898.—In sub-head K and sections 320, 321, 324, 326, 327, 328, 329, 330, 331, 332 and 339A, the words "and assessors", "or assessor,", "or assessors," "or as an assessor", "or as assessor, as the case may be", "or assessor, as the case may be" and "and trials with the aid of assessors", wherever they occur shall be omitted.

63. Amendment of section 342, Act V of 1898.—In section 342 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Court may, either on its own motion or on the suggestion of the prosecution or the defence, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence".

(*b*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) No oath shall be administered to the accused when he is examined under sub-section (*1*)".

64. Insertion of new section 342A in Act V of 1898.—After section 342 of the principal Act, the following section shall be inserted, namely:—

"342A. *Accused person to be competent witness.*—Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in

disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(*a*) he shall not be called as a witness except on his own request; or

(*b*) his failure to give evidence shall not be adverted to, made the subject of any comment, by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

65. Amendment of section 344, Act V of 1898.—To sub-section (*1*) of section 344 of the principal Act, after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that when witnesses are present, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing".

66. Amendment of section 345, Act V of 1898.—In section 345 of the principal Act, for the table next following sub-section (*2*), the following table shall be substituted, namely:—

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
"Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt . . .	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the persona lsafety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confi ning for 10 or more days .	344	Ditto.
Wrongfully confining a person in secret . .	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft	379	The owner of the property stolen.
Dishonest misappropriation of property . .	403	The owner of the property misappropriated.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Criminal breach of trust	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc.	407	Ditto.
Criminal breach of trust by a clerk or servant .	408	Ditto.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc. of any value or any other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark . .	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	The person whose trade or property-mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon."

67. Amendment of section 350, Act V of 1898.—In sub-section (*1*) of section 350 of the principal Act, for the words "or he may re-summon the witnesses and re-commence the inquiry or trial" and the proviso, the following proviso shall be substituted, namely:—

"Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon such witnesses and after such further examination, cross-examination and re-examination, if any, as he may permit, the witnesses shall be discharged".

68. Amendment of section 356, Act V of 1898.—In section 356 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "in the language of the Court by the Magistrate or Sessions Judge", the words "in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court" shall be substituted;

(*ii*) for the words "shall be signed by the Magistrate or Sessions Judge", the words "the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record" shall be substituted;

(*b*) in sub-section (*2*), after the words "with his own hand", the words "or cause it to be taken in writing in that language from his dictation in open Court" shall be inserted;

(*c*) in sub-section (*3*), for the words "In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge" the words "In cases in which the Magistrate or Sessions Judge does not either take down the evidence with his own hand or cause it to be taken down in writing from his dictation in open Court" shall be substituted.

69. Amendment of section 367, Act V of 1898.—For sub-section (5) of section 367 of the principal Act, the following sub-section shall be substituted, namely:—

"(5) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charges to the jury."

70. Amendment of section 368, Act V of 1898.—Sub-section (2) of section 368 of the principal Act shall be omitted.

71. Amendment of section 371, Act V of 1898.—After sub-section (3) of section 371 of the principal Act, the following sub-section shall be inserted, namely:—

"(4) When the accused is sentenced to imprisonment, then, without prejudice to the provisions of sub-section (*1*) or sub-section (*2*), a copy of the finding and sentence shall, as soon as may be, after the delivery of the judgment, be given to the accused free of cost".

72. Amendment of section 375, Act V of 1898.—In sub-section (*2*) of section 375 of the principal Act, the words "or assessors" shall be omitted.

73. Amendment of section 376, Act V of 1898.—In section 376 of the principal Act, the words "whether tried with the aid of assessors or by jury" shall be omitted.

74. Amendment of section 382, Act V of 1898.—In section 382 of the principal Act, for the word "transportation", the word "imprisonment" shall be substituted.

75. Amendment of section 383, Act V of 1898.—In section 383 of the principal Act, the words "transportation or" shall be omitted.

76. Insertion of new section 387A in Act V of 1898.—After section 387 of the principal Act, the following section shall be inserted, namely:—

"387A. *Warrant for levy of fine issued by a Court in Jammu and Kashmir.*—Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in the State of Jammu and Kashmir and the Court passing the sentence issues a warrant to the Collector of a District in the territories to which this Code extends authorising him to realise the amount by execution according to civil process against the movable or the immovable property, or both, of the defaulter, such warrant shall be deemed to be a warrant issued under clause (*b*) of sub-section (*1*) of section 386 by a Court in the territories to which this Code extends and the provisions of sub-section (*3*) of the said section as to the execution of such warrant shall apply accordingly."

77. Amendment of section 393, Act V of 1898.—In section 393 of the principal Act, in clause (b), the words "or to transportation" shall be omitted.

78. Amendment of section 396, Act V of 1898.—In section 396 of the principal Act,—

(*a*) in sub-section (*1*), the words "or transportation" shall be omitted;

(*b*) in sub-section (*3*), the words "or transportation, as the case may be" shall be omitted;

(*c*) in the *Explanation*, clause (*a*) shall be omitted.

79. Amendment of section 397, Act V of 1898.—In section 397 of the principal Act,—

(*a*) the words "or transportation" wherever they occur shall be omitted;

(*b*) the first proviso shall be omitted;

(*c*) in the second proviso, the word "further" shall be omitted.

80. Amendment of section 398, Act V of 1898.—In sub-section (*2*) of section 398 of the principal Act,—

(*a*) the words "or to a sentence of transportation" shall be omitted;

(*b*) the words "or transportation" shall be omitted.

81. Amendment of section 401, Act V of 1898.—To sub-section (*6*) of section 401 of the principal Act, the following proviso shall be added, namely:—

"Provided that in the case of a male person above the age of eighteen years who has been sentenced to imprisonment, no such petition for the suspension or remission of the sentence shall be entertained unless the petitioner is in jail and the petition is presented through the Officer in charge of the Jail".

82. Amendment of section 402, Act V of 1898.—In sub-section (*1*) of section 402 of the principal Act, the word "transportation" shall be omitted.

83. Amendment of section 406, Act V of 1898.—In section 406 of the principal Act,—

(*a*) the first proviso shall be omitted;

(*b*) in the second proviso, the word "further" shall be omitted.

84. Omission of section 407 in Act V of 1898.—Section 407 of the principal Act shall be omitted.

85. Amendment of section 408, Act V of 1898.—In section 408 of the principal Act,—

(*a*) for the words "other Magistrate of the first class", the words "any other Magistrate" shall be substituted;

(*b*) for the words "by a Magistrate of the first class", the words "by any Magistrate" shall be substituted;

(*c*) in the proviso, in clause (*b*), the words "or any sentence of transportation" shall be omitted.

86. Substitution of new section for section 409, in Act V of 1898.—For section 409 of the principal Act, the following section shall be substituted, namely:—

"409. *Appeals to Courts of Session how heard.*—(*1*) Subject to the provisions of this section, an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge or an Assistant Sessions Judge:

Provided that when in any case any person has been convicted on a trial by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person has been sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, no appeal of any person convicted at such trial shall be heard by an Assistant Sessions Judge.

(*2*) An Additional Sessions Judge or an Assistant Sessions Judge shall hear only such appeals as the State Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him."

87. Amendment of section 417, Act V of 1898.—Section 417 of the principal Act shall be renumbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Without prejudice to the provisions of sub-section (*1*), when the proceedings have been instituted upon complaint, the complainant may, with the special leave of the High Court, present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court:

Provided that if the High Court dismisses the appeal and is of opinion that the appeal is either frivolous or vexatious, it may direct that such compensation as it may determine be paid by the appellant to the respondent or to each or any of them."

88. Amendment of section 426, Act V of 1898.—In section 426 of the principal Act,—

(*a*) in sub-section (*2A*), for the words "other than a person accused of a non-bailable offence is", the words "is convicted of a non-bailable offence and" shall be substituted;

(*b*) in sub-section (*3*), the words "or transportation" shall be omitted.

89. Amendment of section 428, Act V of 1898.—In sub-section (*3*) of section 428 of the principal Act, the words "or assessors" shall be omitted.

90. Amendment of section 435, Act V of 1898.—In section 435 of the principal Act,—

(*a*) in sub-section (*1*), for the words "correctness, legality or propriety", the word "legality" shall be substituted;

(*b*) in sub-section (*2*), the words "or improper" shall be omitted.

91. Amendment of section 465, Act V of 1898.—In sub-section (*1*) of section 465 of the principal Act, the words "with the aid of assessors" shall be omitted.

92. Insertion of new sections 485A, 485B and 485C in Act V of 1898.—After section 485 of the principal Act, the following sections shall be inserted, namely:—

"485A. *Summary procedure for punishment for false evidence.*—When any Civil or Criminal Court is of opinion that any witness has, in any stage of the judicial proceeding of that Court, intentionally given false evidence in relation to any matter which affects the credibility or veracity of the witness and the Court is satisfied that it is expedient in the interests of justice that such person should be tried summarily, such Court may, without making a complaint under section 476, take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to simple imprisonment for any term not exceeding one month, or to fine not exceeding two hundred rupees, or both.

485B. *Summary procedure for punishment for non-attendance by a witness in obedience to summons.*—If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to simple imprisonment for any term not exceeding fifteen days, or to fine not exceeding fifty rupees, or both.

485C. *Record in cases under sections 485B and 485C.*—In every case under section 485A or section 485B, the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials in which an appeal lies."

93. Amendment of section 486, Act V of 1898.—In sub-section (*1*) of section 486 of the principal Act, after the word and figures "section 485", the words, figures and letters "or section 485A or section 485B" shall be inserted.

94. Amendment of section 488, Act V of 1898.—In sub-section (*1*) of section 488 of the principal Act, for the words "one hundred rupees", the words "five hundred rupees" shall be substituted.

95. Amendment of section 497, Act V of 1898.—In section 497 of the principal Act,—

(*a*) in sub-section (*1*), for the word "transportation" the word "imprisonment" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) If the trial of any person accused of a non-bailable offence cannot be concluded by a Magistrate within six weeks from the date on which he appears or is brought before the Magistrate, he shall be released on bail to the satisfaction of the Magistrate, if he is in custody, unless the Magistrate for reasons to be recorded in writing otherwise directs."

96. Amendment of section 503, Act V of 1898.—In section 503 of the principal Act,—

(*a*) in sub-section (*1*), for the words "District Magistrate or Presidency Magistrate", the words "or any Magistrate" shall be substituted;

(*b*) to the said sub-section, the following proviso shall be added, namely:—

"Provided that where the examination of the President or the Governor or Rajpramukh of a State as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness";

(*c*) sub-section (*2*) shall be omitted.

97. Amendment of section 505, Act V of 1898.—In sub-section (*1*) of section 505 of the principal Act, the words "of the first class" shall be omitted.

98. Amendment of section 510, Act V of 1898.—In section 510 of the principal Act, after the words "Examiner to Government", the words "or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an officer of the Mint" shall be inserted.

99. Insertion of new section 510A in Act V of 1898.—After section 510 of the principal Act, the following section shall be inserted, namely:—

"510A. *Evidence on affidavits.*—(*1*) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(*2*) The Court may, either on its own motion or on the application of the prosecution or the accused, summon and examine such persons as to the facts contained in the affidavit".

100. Amendment of section 512, Act V of 1898.—In sub-section (*2*) of section 512 of the principal Act, for the word "transportation", the words "imprisonment for life" shall be substituted.

101. Amendment of section 516A, Act V of 1898.—In section 516A of the principal Act, after the words "speedy or natural decay", the words "or if it is otherwise expedient so to do, the Court" shall be inserted.

102. Amendment of section 526, Act V of 1898.—After sub-section (*1*) of section 526 of the principal Act, the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), no application shall lie to the High Court for the exercise of its powers under the said sub-section for transferring any case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him."

103. Amendment of section 528, Act V of 1898.—In section 528 of the principal Act,—

(*a*) in sub-section (*1*), for the words "any case" wherever they occur, the words "any case or appeal" shall be substituted;

(*b*) in sub-section (*1B*), for the words, brackets, figures and letter "recalls a case under sub-section (*1*) or recalls a case or appeal under sub-section (*1A*)", the words, brackets, figures and letter "recalls a case or appeal under sub-section (*1*) or sub-section (*1A*)" shall be substituted;

(*c*) after sub-section (*1B*), the following sub-section shall be inserted, namely:—

"(*1C*) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division".

104. Substitution of new section for section 536 in Act V of 1898.—For section 536 of the principal Act, the following section shall be substituted, namely:—

"536. *Trial without jury of offences triable by jury.*—If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding."

105. Amendment of section 537, Act V of 1898.—In section 537 of the principal Act,—

(*a*) in clause (*c*), the words "or assessors" shall be omitted;

(*b*) after clause (*d*), the following *Explanation* shall be inserted, namely:—

"*Explanation I.*—For the removal of doubts it is hereby declared that any misjoinder of charges shall be deemed to be an error or irregularity in the charge within the meaning of this section";

(*c*) the existing *Explanation* shall be re-numbered as *Explanation II.*

106. Substitution of new sections for section 539A in Act V of 1898.—For section 539A of the principal Act, the following sections shall be substituted, namely:—

"539A. *Affidavit in proof of conduct of public servant.*—(*1*) When any application is made to any Court in the course of any

inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

(2) Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

539AA. *Authorities before whom affidavits may be sworn.*—(1) An affidavit to be used before any Court other than a High Court under section 510A or section 539A may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate.

(2) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended".

107. Amendment of section 539B, Act V of 1898.—In sub-section (2) of section 539B of the principal Act, in the proviso,—

(*i*) the words "or with the aid of assessors" shall be omitted;

(*ii*) the words "or assessors" shall be omitted.

108. Amendment of section 540A, Act V of 1898.—In sub-section (1) of section 540A of the principal Act,—

(*a*) the words "where two or more accused are before the Court" shall be omitted;

(*b*) for the words "any one or more of such accused", the words "the accused or any one or more of the accused" shall be substituted.

109. Insertion of new section 555A in Act V of 1898.—After section 555 of the principal Act, the following section shall be inserted, namely:—

"555A. *Power of High Court to make rules in respect of petition writers.*—(1) Every High Court may, from time to time, and with the previous sanction of the State Government, make rules—

(*a*) as to the persons who may be permitted to act as petition writers in the Criminal Courts subordinate to it;

(*b*) regulating the issue of licence to such persons, the conduct of business by them, and the scale of fees to be charged by them; and

(*c*) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed.

Provided that the rules made under this section shall not be inconsistent with this Code or any other law in force for the time being.

(2) All rules made under this section shall be published in the Official Gazette."

110. Amendment of section 562, Act V of 1898.—In sub-section (*1*) of section 562 of the principal Act, for the words "transportation for life" the words "imprisonment for life" shall be substituted.

111. Amendment of section 565, Act V of 1898.—In sub-section (*1*) of section 565 of the principal Act, the words 'transportation or' shall be omitted.

112. Amendment of Schedule II to Act V of 1898.—In Schedule II to the principal Act,—

(*a*) for the entry relating to section 500 under Chapter XXI, the following entry shall be substituted, namely:—

1	2	3	4	5	6	7	8
'500	(*a*) Defamation against the President, the Governor or Rajpramukh of a State or a Minister or any other public servant in the discharge of his public functions.	May arrest without warrant.	Warrant	Bailable.	Compoundable.	Simple imprisonment for two years or fine or both.	Court of Session.
	(*b*) Defamation against any person other than a person referred to in clause (*a*)	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class." ;

(*b*) in the entries relating to section 161, 162, 163, 164 and 165, in the 3rd column, for the words "Shall not arrest without warrant", wherever they occur, the words "May arrest without warrant" shall be substituted;

(*c*) in the entries relating to sections 344, 379, 406, 407, 408, 421, 422, 428 and 429, in the 6th column, for the words "Not compoundable", wherever they occur, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(*d*) in the 7th column—

(*i*) for the words, "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted;

(*ii*) any reference to transportation for any term or to transportation for any shorter term shall be omitted.

113. Amendment of Schedule V to Act V of 1898.—In Schedule V to the principal Act,—

(*a*) in Form XXXII, the words 'and Assessors', wherever they occur shall be omitted;

(*b*) in Form XXXIII, the words 'Assessors or' and the words 'and Assessor' shall be omitted;

(*c*) in Form XXXVI,—

(*i*) for the words 'transportation for life', the words 'imprisonment for life' shall be substituted;

(*ii*) for the word 'transportation', the words 'imprisonment for life' shall be substituted.

114. Amendment of Act XLV of 1860 and Act XI of 1873.—The Indian Penal Code (Act XLV of 1860) and the Indian Oaths Act, 1873 (X of 1873) shall be amended in the manner specified in the Schedule.

"THE SCHEDULE

(*See* section 114)

A. AMENDMENTS TO THE INDIAN PENAL CODE (ACT XLV OF 1860)

1. In section 53, the words "Secondly,—Transportation" shall be omitted.

2. In section 55 and section 57, for the word "transportation" wherever it occurs, the word "imprisonment" shall be substituted.

3. Section 58 shall be omitted.

4. In section 75 and section 121, for the words "transportation for life" wherever they occur the words "imprisonment for life" shall be substituted.

5. In section 121A, for the words "transportation for life or any shorter term" the words "imprisonment for life" shall be substituted.

6. In section 122, for the words "transportation for life", the words "imprisonment for life" shall be substituted.

7. In section 124A, for the words "transportation for life or for any term" the words "imprisonment for life" shall be substituted.

8. In section 125, section 128, section 130, section 131, section 132, section 194, section 195, section 196, section 197, section 198, section 199, section 200, section 222, section 225, section 226, section 232, section 238, section 255, section 302, section 304, section 305, section 307, section 311, section 313, section 314, section 326, section 329, section 364, section 371, section 376, section 377, section 388, section 389, section 394, section 395, section 396, section 400, section 409, section 412, section 413, section 436, section 438, section 449, section 459, section 460, section 467, section 472, section 474, section 475, section 477, section 489A, section 489B, and section 489D, for the words "transportation for life", wherever they occur, the words "imprisonment for life" shall be substituted.

9. In section 511, the words "transportation or" wherever they occur shall be omitted.

B. AMENDMENT TO THE INDIAN OATHS ACT, 1873 (X OF 1873)

In section 5, after the words "oath or affirmation to the accused person", the words "unless he is examined as a witness for the defence" shall be inserted."

STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure was enacted in 1898 and though from time to time slight changes have been made in it, it has remained practically unaltered during the last 55 years. The aim of a sound Criminal Procedure is two-fold: (a) to provide adequate facilities to every accused person for defending himself in a proper manner, and (b) at the same time, to ensure speedy disposal of all criminal judicial business, so that innocent persons should not suffer from protracted proceedings and the real offenders should be punished as early as possible after proper trial. Experience has now shown that the present Criminal Procedure Code does not encourage speedy disposal and that it leaves many loopholes to guilty persons to postpone the evil day as much as possible. This is a very undesirable state of affairs and there is a growing public demand for simplification of procedure, so that the proceedings may be brought to a speedy end. The Bill is designed to meet that demand.

2. The Code deals with various offences in terms of their gravity. Offences of a petty nature can be tried by Magistrates of lower grades either by way of a summary trial or by a process known as the Summons Procedure. Offences of a more serious nature are triable either by Magistrates of 1st Class by what is known as the Warrant Procedure or by Sessions Judges. The procedure in this latter class of cases is fairly complicated and leads to great delays. The procedure in warrant cases involves innumerable adjournments and allows the accused person, if he so desires, to prolong the proceedings almost indefinitely. The trial in the Court of Sessions is preceded by an inquiry before a Magistrate. This inquiry is popularly known as Commitment Proceedings. The object underlying these Commitment Proceedings was to ensure that innocent persons should not be harassed by a Sessions trial and only those against whom there was a *prima facie* case should be committed for such trial. Experience, however, has shown that Magistrates commonly commit practically all the persons brought before them by the police after careful investigation. The proportion of persons discharged at this stage does not exceed 2 per cent. or thereabouts. These Commitment Proceedings, however, often prove extremely lengthy, involve many adjournments and cause not only the prosecution, but the accused as well, trouble and heavy expense. Even after the commitment, the Sessions trial may not commence for some months, and the result is that persons guilty of extremely grave offences have to remain in suspense often for more than a year or so. In cases involving death penalty, the situation is still worse because under the law, a death sentence has to be confirmed by the High Court and this confirmation often takes anything from six months to a year, if not more. The Bill abolishes Commitment Proceedings in cognizable cases and the accused is to be put up by a Magistrate directly for trial before a Sessions Judge. To enable the accused to know the case that he has to meet, the Bill provides that he should, in good time, be supplied with copies of the statement recorded in police diaries during investigation, of statements before a Magistrate under section 164, as well as copies of the First Information Report and all other material documentary or other evidence on which the

prosecution proposes to rely. Commitment Proceedings are, however, being retained in cases initiated by private complainants. That is necessary because in such cases, safeguards which become available in cognizable cases through police investigation are non-existent.

3. The Bill is intended to simplify procedure to the utmost extent possible, and to avoid all possible delays and further to speed up trials regarding less serious offences. One of the results of this indefinite duration of criminal proceedings is the prolonged detention in jails of under-trial prisoners. This is very unsatisfactory. Every citizen is entitled to claim that he should be tried quickly or released on bail. Furthermore, delay in bringing the offender to trial leads to fading of memories and also to very reprehensible attempts on the part of guilty persons to suborn witnesses and thus defeat the ends of justice.

4. The Bill provides for extension of the Summons Procedure for trial of offences of a less serious nature and also enlarges the powers of Magistrates to impose higher sentences of fine.

5. To make the people feel that the courts are their courts, and that they should co-operate fully with the administration of justice, Sessions Judges are now being authorised, whenever they think fit and expedient, to hold trials at any place within their jurisdiction. The intention is that if it can be managed, a Sessions trial should be held as near the place of occurrence as possible, thereby causing the minimum inconvenience to the witnesses. The same rule would apply to magisterial trials. To stop the prevailing evil of perjury and to make the witnesses realise that it is a very anti-social act on the part of anyone to mislead a court of justice by deliberately giving false evidence, the courts are being authorised to try a witness summarily for the offence of perjury and call upon him to show cause why he should not be held guilty of this serious offence.

The procedure in warrant cases is being simplified so that the prosecution witness should not normally be cross-examined more than once, nor be liable to be called upon a second time unless the Magistrate thinks that there is real necessity for his further cross-examination. Adjournments are not to be allowed except for an unavoidable cause, and so far as possible, no adjournment is to be allowed without the examination of the witnesses then present in court. One of the frequent causes of repeated adjournments is the non-attendance of witnesses. There is a general impression that non-compliance with a summons of the court is not a serious matter, and unless a warrant is issued for any particular witness, he runs no peril. This false impression is sought to be removed by empowering the court in suitable cases to punish people who disobey court summons without just cause.

6. All criminal cases mostly turn on facts and in every criminal case, there is a right of appeal provided either to the High Court or to the Sessions Judge. The time of the High Court is often wasted by the accused person applying in revision on totally insufficient

grounds. This causes waste of judicial time in the High Court and enormous trouble and needless expense to the petitioners themselves who are often poor and are further impoverished as a result of such revisions. In order to put the matter beyond doubt, section 435 is being suitably amended, restricting revisions purely to points of law.

7. At present, every trial by a Court of Session must be either by jury or with the aid of assessors. The system of assessors has been condemned as no longer of any utility. It is therefore proposed that it should be abolished. So far as trial by jury is concerned, opinion is divergent. No change has, therefore, been made in the existing provision under which it is open to any State Government to extend the jury system wherever it likes, to the whole or any part of the State, and for all or any specified class of offences. It has, however, been provided that in any case where the High Court is satisfied that owing to the volume and the complexity of evidence the duration of trial is likely to exceed a week or the case involves considerations of a highly technical evidence, it may order that the trial by jury may be dispensed with. Wherever the system of trial by jury exists or is brought into force, in order to minimise the possibility or a *de novo* trial by reason of the illness or death of any juror, the number of jurymen has been increased and it is provided that the absence of one or two of them shall not interfere with the progress of the trial.

8. The Code already empowers courts to award compensation to the accused for the abuse of the process of the Court by making of false and frivolous complaints. The amount of compensation at present provided has been considered very low and is being increased.

The amount that a Magistrate may award as maintenance to a deserted wife has been increased.

9. Various sections, particularly section 342, empower Magistrates and Sessions Judges to put questions to the accused at any stage of an inquiry or a trial, but this examination is not on oath, and is in the nature of things, sometimes very incomplete. These powers are now being made more general, and a Magistrate or a Judge is now being empowered to examine the accused of his own accord or at the suggestion of the prosecution or the defence on any point that he thinks fit, keeping, of course, in view the provisions of article 20(3) of the Constitution that, no accused shall be compelled to give evidence against himself. The accused is, however, being given liberty to offer himself as a witness on his own behalf if he so desires. It has been made clear that the failure of the accused to do so shall not be adversely commented upon by the prosecution.

10. Often grossly improper, unfounded and defamatory allegations and charges are made against public servants in regard to their actions in the discharge of their official duties. It is desirable, in the public interest, that inquiries should be made into such charges. Therefore, such cases are being made cognizable so that they may be brought before a court by the police after proper investigation. Such cases are being made triable exclusively by a Court of Session. Offences under sections 162—164 of the Indian Penal Code (which deal

with taking illegal gratification to influence or to exercise personal influence with a public servant or the abetment of both of these offences) have been made cognizable and Schedule II to the Code of Criminal Procedure suitably amended.

11. In cases of disputes relating to immovable properties, the existing provisions require a Magistrate to adjudicate upon the question as to which particular party was in possession of the properties. This results sometimes in protracted proceedings involving a good deal of public time and interference with other normal magisterial duties. Section 145 is, therefore, being suitably amended, empowering Magistrates to attach the property, to appoint receivers, if necessary and to direct the parties to resort to the civil court for the determination of their rights, including the question of possession over the property concerned. It has, however, been provided that the parties affected thereby should be given adequate opportunity of being heard in the matter either before or after the attachment to enable the Magistrate, where necessary, to withdraw his orders of attachment and restore possession to the party rightfully entitled to it. The order is to be for a specific period at the end of which the matter will be reconsidered by the Magistrate if by that time no civil court (to which the parties might have resorted) has acquired jurisdiction over the matter.

12. General opinion has been expressed that the inadequacy of Magistrates is one of the primary causes for delays in the disposal of criminal judicial business in courts. In many States, the number of stipendiary Magistrates is small and their number is supplemented by appointment of a large number of honorary Magistrates. The existing provisions (section 14) authorises such appointment but that section contains no provision regarding the qualification of persons who might be appointed as honorary Magistrates. An amendment is now being made to ensure that such people should either be retired judicial officers or persons suitably qualified in accordance with the rule made by the State Government in this behalf.

13. It is proposed that an under-trial prisoner should normally be released on bail if his trial cannot be concluded within six weeks of his being brought before the Magistrate unless the Magistrate thinks his continued detention expedient in the ends of justice. In order to allow a convict opportunity for immediately applying for bail pending an appeal, the Magistrate is directed to supply him as soon as may be possible with a statement showing the nature of the finding and the length of the sentence. Section 401 gives powers to State Governments to remit or suspend sentences. In order to prevent very reprehensible endeavours on the part of convicted prisoners to avoid going to jail, and any disobedience to the order of the court, it has now been made clear that no application under section 401 will be entertained from any person, sentenced to imprisonment, unless it is made after surrender and through the jail authorities.

Section 406 specifies that any person who has been ordered to give security for keeping the peace or for good behaviour, may appeal from such order to the Court of Session or High Court. The *proviso* to this section, however, provides that the State Government may, by notification in the Official Gazette, direct that in any

district specified appeals from such orders may lie to the District Magistrate and not to the Court of Sessions. It is proposed to omit the proviso to section 406.

Under section 407 appeals against convictions by Magistrates of the 2nd and 3rd Class lie to the District Magistrate who may direct that any appeal or class of appeals shall be heard by a 1st class magistrate empowered by the State Government to hear such appeals. As a step towards effecting separation of the Judiciary from the Executive it is proposed to suitably amend section 407 providing that such appeals shall lie to the Court of Session.

In Summons cases filed on complaint Magistrates have been empowered to dispense with the attendance of the complainant and to proceed with the case if they consider it expedient to do so. Courts have also been empowered, where the accused is properly represented by a pleader, to proceed with the trial in the absence of the accused.

Provision has been made that misjoinder of charges shall not vitiate a trial unless prejudice is shown to have been caused to the accused.

KAILAS NATH KATJU.

NEW DELHI;
The 24th April, 1954.

Notes on clauses

Clause 2.—Offences punishable with imprisonment for a term not exceeding six months are at present triable as a summons case. This clause seeks to extend the procedure prescribed for summons cases to offences punishable with imprisonment for a term which may extend to one year.

As there is no longer any transportation for life as such, it is proposed to substitute the words 'imprisonment for life' for the words 'transportation for life'.

Clause 3.—This clause will enable a Court of Session to hold trial anywhere in the sessions division, if it tends to the general convenience of the parties and witnesses.

Clause 4.—In order that right type of men may be appointed as honorary magistrates, this clause provides that a person shall not be appointed as an honorary magistrate unless he has judicial experience or possesses certain prescribed qualifications.

Clause 5.—This is merely a consequential change.

Clause 6.—The existing section 30 provides for the appointment of special magistrates with power to try all offences not punishable with death. This section does not, however, extend to the whole of India. It is proposed to extend this section to the whole of India but a special magistrate will not have power to try offences punishable with imprisonment exceeding seven years. It has also been provided that magistrates with experience will be invested with such powers.

Clause 7.—This clause seeks to enlarge the powers of Assistant Sessions Judges. Under the existing law, they could not try offences punishable with imprisonment for a term exceeding seven years. They will now be empowered to try offences punishable with imprisonment for a term which may extend to ten years.

Clause 8.—This clause proposes to enlarge the powers of all magistrates to impose higher sentences of fine.

Clauses 9 *and* 10.—The changes are merely consequential.

Clause 11.—This clause makes members of *gram panchayats* also responsible for reporting to the police certain matters regarding offenders and offences enumerated in section 45 of the Code of Criminal Procedure.

Clause 12.—The change is consequential.

Clause 13.—Section 47 of the Code requires the person residing in, or being in charge of, a place to allow free ingress to any police officer who wishes to make an arrest or conduct a search inside the place. The expression 'the person' has sometimes been interpreted to mean the head of the house only, although the intention appears to be that every person residing in the place should be responsible for affording reasonable facilities. The proposed amendment seeks to clarify the intention.

Clause 14.—The amendment is consequential.

Clause 15.—Under sub-section (2) of section 107 of the Code, a District Magistrate or a Chief Presidency Magistrate may take action under that section against a person who is likely to commit a breach of the peace or disturb the public tranquillity beyond the limits of his jurisdiction. Such powers are not, however, available to other magistrates. Under the Code of 1882, this power was available also to Sub-divisional Magistrates and magistrates of the first class. This clause seeks to restore the position as it existed under the Code of 1882.

Clause 16.—This clause provides that all proceedings relating to security for keeping the peace or security for good behaviour should be in accordance with the procedure prescribed for summons cases.

Clause 17.—In cases of dispute relating to immovable property, the existing section 145 requires a magistrate to decide the question of possession. This results sometimes in protracted proceedings. Under the proposed section, the magistrate will have power merely to attach the property, if it is necessary to do so to prevent a breach of the peace. He will not concern himself with the question of possession or the rights of parties. Such questions should be decided by a Civil Court.

Clauses 18 *and* 19.—These clauses are consequential on the amendment of section 145.

Clause 20.—This clause imposes an obligation on a police officer to get the statements of all material witnesses recorded under section 164. This procedure has to be followed in all cases triable by a Court

of Session and as far as possible, in all other cognizable cases. It is proposed to supply the accused with such statements in order that he may know, before the commencement of the trial, the case he is to meet. This has become necessary because it is proposed to abolish commitment proceedings in cases instituted on a police report and also to shorten the procedure prescribed for warrant cases.

As it is proposed to omit section 162 of the Code, a provision has been inserted that no statement made by any person to a police officer shall be signed by the person making it.

Clause 21.—As it is proposed to supply statements recorded by a police officer under sub-section (3) of section 161 to the accused, section 162 is superfluous and has been omitted.

The second proviso to sub-section (1) of section 162 has been incorporated as a proviso to clause (4) of section 173.

Clause 22.—This clause will enable any magistrate of the second class to record a statement under section 164.

Clause 23.—This clause enumerates the documents, copies of which will be given to the accused before the trial.

Clause 24.—This is a consequential change.

Clause 25.—This amendment is consequential on making defamation against the President, Governor or Rajpramukh of a State or a Minister or any other public servant in the discharge of his public functions a cognizable offence.

Clauses 26 *and* 27.—These clauses provide that while taking cognizance of any case, the magistrate should examine not only the complainant but also the witnesses present.

Clause 28.—It provides that a list of prosecution witnesses should be furnished to the magistrate before any summons or warrant is issued against the accused.

Clause 29.—This clause specifies the procedure to be adopted in proceedings instituted on a police report when the accused is to be committed for trial in a Court of Session.

Clauses 30 *to* 33.—The changes are consequential.

Clause 34.—This clause will enable a magistrate to dispense with the attendance of the complainant in a summons case.

Clause 35.—This clause will enable a magistrate to award a higher amount as compensation to the accused for a false, frivolous or vexatious accusation against him.

Clauses 36 *to* 38.—These clauses are intended to shorten the procedure prescribed for warrant cases. Under the existing law, a witness may be cross-examined at once as soon as the examination-in-chief is over and then again, he is called for a further cross-examination after the charge is framed and again, if the accused so desires, he may be summoned as a defence witness. These clauses seek to shorten such dilatory procedure. It is intended that a witness should be cross-examined immediately after his examination-in-chief. Only

in exceptional cases, when the magistrate thinks that it is necessary for the ends of justice, he may permit cross-examination of a witness to be deferred until other witness or witnesses have been examined. It also provides that a prosecution witness cannot be summoned as a defence witness.

Clause 39.—This clause extends the scope of offences that may be tried by summary procedure under section 260.

Clause 40.—This section merely seeks to clarify the intention underlying section 264.

Clause 41.—It is proposed to abolish trials with the aid of assessors and the trial will be either by a jury or by the Judge himself.

Clause 42.—Sub-clause (a) is merely consequential. Sub-clause (b) empowers a High Court to dispense with trial by a jury in any particular case, if on account of the volume and complexity of the case, the duration of the trial is likely to exceed one week or if the case involves consideration of evidence of a highly technical nature.

Clause 43.—This is a consequential change.

Clause 44.—This clause specifies the procedure to be followed in cases triable by jury and also in any other case triable by the judge himself.

Clause 45.—This clause proposes to increase the number of jurors so that even if two of them absent themselves, it shall not be necessary to adjourn the trial.

Clause 46.—It provides that even if two jurors cease to attend for any reason, the trial may be proceeded with.

Clause 47.—This is a consequential change on the abolition of trial with the aid of assessors.

Clause 48.—As evidence is not recorded in certain inquiries before committing the accused to trial in a Court of Session, it is proposed to give discretion to the Judge to defer cross-examination of certain witnesses.

Clauses 49 *to* 54.—These changes are only consequential.

Clause 55.—This clause provides that charge to the jury should be taken down in shorthand, whenever practicable, in the language in which it is delivered in order that there may not be any discrepancy between the charge delivered and the written charge.

Clauses 56 *to* 58.—These clauses provide that when the jurors are equally divided in opinion, the case shall be referred to the High Court.

Clauses 59 *and* 60.—These changes are consequential on the abolition of trial with the aid of assessors.

Clause 61.—This clause will enable women to serve as jurors.

Clause 62.—The changes are consequential.

Clause 63.—This clause will enable the Court, in the interests of justice, to put such questions to the accused as it considers necessary, keeping in view the provisions of article 20(3) of the Constitution.

Clause 64.—This clause will enable the accused to be a competent witness for the defence.

Clause 65.—This clause provides that when witnesses are present in court, adjournment should not be granted without examining them, except for very special reasons.

Clause 66.—This clause enlarges the list of offences compoundable with permission of the court.

Clause 67.—This clause provides that when a magistrate is succeeded by another magistrate, it will not be necessary to have a *de novo* trial in all cases and the succeeding magistrate may proceed with the case from the stage where it was left off and he may re-summon only such witnesses as he thinks fit.

Clause 68.—This clause will enable a Judge or a magistrate to avail himself of the services of a stenographer for the purpose of recording evidence.

Clause 69.—Under the existing law, when the accused is convicted of an offence punishable with death and the court proposes to sentence him to any punishment other than death, the court has to record reasons for giving a lesser punishment. This provision has been omitted.

Clause 70.—This is a consequential change.

Clause 71.—This clause provides that the accused shall be supplied with a copy of the finding and sentence free of cost, immediately after the delivery of judgment, to enable him to move in the matter of appeal, if he so desires.

Clauses 72 *to* 75.—The changes are consequential.

Clause 76.—This clause will enable execution of warrant for levy of fine issued by a court in Jammu and Kashmir on a reciprocal basis.

Clauses 77 *to* 80.—The changes are consequential.

Clause 81.—This clause provides that no petition of a convicted person for the suspension or remission of the sentence shall be entertained unless he is already in jail and the petition is submitted through the jail authorities.

Clause 82.—The change is consequential.

Clause 83.—This clause takes away the powers of District Magistrates to hear appeals from orders to give security for keeping the peace or for good behaviour.

Clauses 84 *to* 86.—These clauses provide that appeals against convictions by magistrates of second and third class shall lie to the Court of Session and not to District Magistrates and such appeals may be heard by Assistant Sessions Judges also.

Clause 87.—This clause provides for appeal against acquittal in a case instituted upon complaint.

Clause 88.—This clause seeks to clarify the intention underlying section 426 that a person convicted of a non-bailable offence may be released on bail, if he intends to present an appeal against such conviction.

Clause 89.—The change is consequential.

Clause 90.—This clause seeks to restrict revisions in criminal cases to points of law only.

Clause 91.—The change is consequential.

Clause 92.—This clause provides for a summary procedure for punishment for giving false evidence and also for non-attendance by a witness in obedience to summons.

Clause 93.—This is a consequential change.

Clause 94.—This clause proposes to increase the amount that a magistrate may award as maintenance to wives and children.

Clause 95.—The intention underlying this clause is that the trial of a criminal case should be concluded within six weeks from the date of the appearance of the accused. In case, it is not possible to conclude the case within that time, the under-trial prisoner should be released on bail, unless the magistrate otherwise directs.

Clauses 96 *and* 97.—These clauses provide that when the President or the Governor or the Rajpramukh of a State is to be examined as a witness, he should be examined on commission. It also enables a magistrate of any class to execute a commission.

Clause 98.—This clause seeks to enlarge the scope of section 510.

Clause 99.—This clause provides that evidence of a formal character may be given by affidavit.

Clause 100.—The change is merely consequential.

Clause 101.—This clause seeks to enlarge the power of the Court to sell or otherwise dispose of the property regarding which an offence appears to have been committed, when the Court considers it expedient to do so.

Clauses 102 *and* 103.—These clauses provide that an application for transfer of a criminal case from one Criminal Court to another in the same sessions division shall first be made to the Sessions Judge. Such an application will lie to the High Court only if the application is rejected by the Sessions Judge.

Clause 104.—This clause provides that if an offence triable by a jury is tried without a jury, the trial shall not be invalid, unless objection is taken before the Court records its finding.

Clause 105.—This clause provides that misjoinder of charges will not vitiate a trial; unless it has in fact occasioned a failure of justice.

Clause 106.—The changes are merely consequential on the insertion of section 510A by clause 99.

Clause 107.—This is a consequential change.

Clause 108.—This clause will enable a court to dispense with the attendance of the accused, even in a case in which there is only one accused person.

Clause 109.—This clause will enable the High Courts to make rules regarding licensing of petition writers in Criminal Courts.

Clauses 110 *and* 111.—The changes are consequential.

Clause 112.—Sub-clause (a) of this clause makes offence of defamation against the President, the Governor or Rajpramukh of a State or a Minister or any other public servant cognizable.

Sub-clause (b) of this clause makes offences under sections 162, 163 and 164, I.P.C. cognizable.

Sub-clauses (c) and (d) of this clause are consequential.

Clause 113.—Amendment of Schedule V is merely consequential.

Clause 114 *and the Schedule.*—Only consequential amendments have been made in the Indian Penal Code and the Indian Oaths Act, 1873.

M. N. KAUL,
Secretary.

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS, NEW DELHI
AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1954